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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/305,178	05/04/1999	GUILLAUME RIBADEAU-DUMAS	6-1032-035	1699

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EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
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1761

25

DATE MAILED: 02/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09(305)178

Applicant(s)

RIBADEAU-DUMAS ET AL

Examiner

ARTHUR L. COBBIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 11-16-01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 39-46 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 39-46 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 16, 2001 has been entered.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 41 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There's no support in the original disclosure for the limitation recited in claim 41. Table 2 in applicant's spec. discloses a glass transition temperature of 35.3°C for a 3% water content.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1761

5. Claims 39-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yotka et al (5,458,892) or Meyers et al (5,236,719).

Yotka<sup>KE</sup> et al is described in the paragraph bridging pages 2 and 3, Paper No. 16.

Also, see Examples 190 to 192 in Yotka et al for the use of a polyol and pyrodextrin ~~in~~ <sup>polyol in said examples is highly</sup>

hard candy. Although the <sup>soluble</sup> Yotka et al (cols. 6 and 9) discloses that lactitol or mannitol are viable alternatives for the polyols in said examples. Meyers et al also disclose candies which include a pyrodextrin and lactitol or mannitol (col. 4).

Additionally, the claimed molecular weight of 4000 to 5000 daltons is merely preferred by applicant (page 11 of spec.) and is thus not critical. Further, said molecular weight is a result effective variable which, in the absence of unexpected results, is merely an obvious matter of choice.

6. Applicant's arguments with respect to claims 31-38 submitted October 19, 2001 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is (703) 308-3850. The examiner can normally be reached on Tuesday - Friday from 9:30 AM to 7:00 PM. The examiner can also be reached on alternate <sup>days</sup>.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Art Unit: 1761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Arthur Corbin/om

February 13, 2002



ARTHUR L. CORBIN  
PRIMARY EXAMINER  
2-13-02